

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE:

DATE:

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JUN 30 1976

MATTER OF: B-185584

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**Clifton E. Klinefelter - Real estate transaction
expenses**

DIGEST:

Transferred employee who purchased residence 55 miles from new duty station is not entitled to reimbursement of real estate expenses incurred in connection with purchase in absence of clear evidence that he commuted to and from such residence on a daily basis. Where claimant's assertion in this regard is contradicted by his prior inconsistent statement and is not otherwise substantiated, claim is of doubtful validity and must be disallowed.

This matter concerns an appeal to the settlement dated July 23, 1975, issued by our Transportation and Claims Division (now Claims Division), which disallowed the claim of Mr. Clifton E. Klinefelter, a former employee of the Veterans Administration. The claim is for reimbursement of real estate expenses incurred in the purchase of a residence.

The record shows that in late January of 1974 Mr. Klinefelter was notified of a permanent change of station from Danville, Illinois, to Coatesville, Pennsylvania, with a reporting date of March 4, 1974. On February 1, 1974, Mr. Klinefelter consummated the purchase of a residence in Lebanon, Pennsylvania, a city located approximately 55 miles from his new duty station. Incident to the purchase of this residence, Mr. Klinefelter incurred real estate transaction expenses amounting to \$692.50, for which reimbursement is claimed.

Paragraph 2-6.1 of the Federal Travel Regulations (FPMR 101-7, May 1973) provide in pertinent part:

"2-6.1 Conditions and requirements under which allowances are payable. To the extent allowable under this provision, the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station, for purchase (including construction) of one dwelling at his new official station, or for the settlement

of an unexpired lease involving his residence or a lot on which a mobile home used as his residence was located at the old official station; Provided, That:

* * * * *

"b. Location and type of residence. The residence or dwelling is the residence as described in 2-1.4i, which may be a mobile home and/or the lot on which such mobile home is located or will be located."

Paragraph 2-1.4i provides as follows:

"i. Official station or post of duty. The building or other place where the officer or employee regularly reports for duty * * *. With respect to entitlement under these regulations relating to the residence and the household goods and personal effects of an employee, official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work. However, where the official station or post of duty is in a remote area where adequate family housing is not available within reasonable daily commuting distance, residence includes the dwelling where the family of the employee resides or will reside, but only if such residence reasonably relates to the official station as determined by an appropriate administrative official." (Emphasis added.)

In order for an employee to be entitled to reimbursement of expenses incident to the purchase of a residence, the new residence must be located at the employee's new "official duty station" within the meaning of that term in the Federal Travel Regulations. See B-181415, February 5, 1975. Mr. Klinefelter does not contend that the new duty station is in a remote area where adequate family housing is not available within reasonable daily commuting distance. Therefore, the allowability of his claim turns on whether the

dwelling in Lebanon was the dwelling from which the employee regularly commuted to and from work. The term "regularly" has been interpreted to require commuting on a daily basis, not just on weekends. See B-176787, October 25, 1972.

Mr. Klinefelter states that he purchased the residence in Lebanon because his family's home had formerly been in Lebanon and it was their goal to return there before or after his retirement in December of 1974 from the Federal service. In a letter dated February 11, 1974, to an official at the Veterans Administration Hospital in Coatesville, Mr. Klinefelter stated that he would, "at least for the time being, require a room in the bachelor's quarters." In the same letter he indicated that he was planning to move his furniture to Lebanon on February 22 or 25, prior to his planned reporting date of March 4, 1974.

The record contains a travel voucher upon which appears the following statement, signed by Mr. Klinefelter and dated May 2, 1974: "I do not commute daily from Lebanon to Coatesville. On Fridays I go home to Lebanon and return to Coatesville VAH on the following Monday." Mr. Klinefelter now claims that the above-quoted statement "was not intended to be there," although he has not contested the authenticity of his signature directly beneath the quoted statement. Part of Mr. Klinefelter's letter appealing the Transportation and Claims Division settlement reads as follows:

"The statement on SF-1012, stating that I do not commute daily from Lebanon to Coatesville, as written is incorrect. I complained about this to several people at VAH in Coatesville and was told that it won't mean anything. I did stay in Coatesville several days each week during the months of March and April 1974 due to the inclement weather conditions and also because once or twice a week I work for several hours between 6 and 9 p.m. to observe the pest control program at the hospital. * * *"

The present assertion of Mr. Klinefelter that he commuted to Lebanon on a daily basis is directly contradicted by his prior inconsistent statement. If an employee commutes on a daily basis, it would appear that evidence to substantiate this fact would be

B-185584

available to the employee. Mr. Klinefelter has failed to come forward with any evidence to support his claim other than his own assertions.

Since Mr. Klinefelter's assertion that he commuted on a daily basis is contradicted by his prior inconsistent statement and is not otherwise substantiated, we cannot authorize payment of his claim. The rule is well settled that claims of doubtful validity should be disallowed by the Accounting Officers of the Government and the claimant left to his remedy in the courts. See Charles v. United States, 19 Ct. Cl. 316, 319 (1884); Longwill v. United States, 17 Ct. Cl. 288, 291 (1881).

In light of the foregoing, the action taken by our Transportation and Claims Division in disallowing the claim is sustained.

Paul G. Dembling

For Comptroller General
of the United States